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LB 1285

should be a decision inside the glass, it seems to me, and I think we owe some kudos to the Transportation Committee here. Transportation Committee has said, essentially, two things which are consistent with all the rest of administrative work for the most part in the rest of state government. That is if you are a regulatory agency and you issue an order and people defy it you have a set of disciplinary procedures. The Banking Department has them, the Insurance Department has them, and they constitute administrative fines. We do it all the time. It's in a whole lot of agencies. This isn't remarkable. This is an agency that's had to fight for its authority from an industry that has had the ear of the Legislature for the last 15 years and remarkably has thrown away the power to discipline the industry it's supposed to regulate because (laugh) we allowed them to write the rules. Frankly, administrative fining authority is a common authority, exists throughout the statutes and it exists in the committee...in the...in the departments that my committee oversees. What he's asking for here, in fact, is even more cautious than normal because it has a clear and convincing standard of evidence, but what the Transportation Committee is moving to is the standard that we generally apply. That's reasonable. Now, whether they like it beyond the glass or not is a different thing, but I'm not sure that we should get the wolves together to figure out what the rules of the henhouse is going to be, because that's what we have here outside the glass, and this should be done inside the glass. And I think the standard that we should probably apply is, what are we doing in every other case where the industry isn't as powerful as the telecommunications industry, and we'd do things exactly like LB 1285. Secondly, in the other half of the amendment we have appeals from an order of the PSC. Everywhere else in state government--Banking Department, Insurance Department, the ones that we regulate in our committee--if you get an adverse order you can appeal it to the judicial branch and the parties can request a stay of the order, and to get a stay they have to show that there's going to be irremediable, irreparable damage if the stay isn't given, and that there won't be significant harm if it is given. So it's a factual question for an appellate court to make a decision about. They weigh the equities. They determine what's fair. Do we keep the parties where they are before we effectuate the order, or do we let the order go into effect and then have the appeal and see what happens? And the courts